



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

John Lee, Chair
Susanne Murphy, Vice Chair
Bob Fitzgerald, Clerk
Jane Coffey, Member
Drew Delaney, Member

DECISION-WALPOLE ZONING BOARD OF APPEALS CASE NO. 04-20

APPLICANT

103 Providence Highway, LLC

LOCATION OF PROPERTY INVOLVED

103 Providence Highway
Walpole Assessors Map 29, Parcel 10, Zoning District HB

APPLICATION

A Special Permit under Section 7.6-A.4 of the Zoning Bylaw to allow an electronic message center utilizing LED, located at 103 Providence Highway, Walpole MA, 02081, Zoning District HB.

On March 18, 2020, May 20, 2020, and June 17, 2020 a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information as to the granting of a Special Permit request.

The following members were present and

voting:

John Lee, Chairman
Susanne Murphy, Vice Chair
Robert Fitzgerald, Clerk
Drew Delaney, Member

VOTE OF THE BOARD

A motion was made by Murphy and seconded by Delaney to grant a Special Permit under Section 7.6-A.4. of the Zoning Bylaw an electronic message center utilizing LED, located at 103 Providence Highway, Walpole MA, 02081, Zoning District HB.

The vote was **(5-0-0)** in **favor** (Lee, Murphy, Fitzgerald, Coffey and Delaney voting), therefore the Request for a **Special Permit** is hereby **granted, subject to the following conditions:**

CONDITIONS:

1. The sign shall be constructed as per the plan submitted at the public hearing on March 18, 2020, signed and stamped by Jere Murdoch, P.E., of Murdoch Engineering, located at 2 Hummingbird Court, Howell, N.J. 07731, dated 2/12/2020
2. The electronic message center shall be equipped with automatic dimming technology/ ambient light monitors that automatically adjust the brightness levels to the display based on ambient light conditions.
3. The applicant shall allow the display of community messages from Walpole Emergency if needed.

REASONS FOR DECISION:

It is the finding of the Board that the Applicant was able to meet the requirements of Section 7.6-A.4. to allow an electronic message center utilizing LED, located at 103 Providence Highway, Walpole MA, 02081, Zoning District HB. The Board finds that the activity is not injurious or dangerous, and shall not result in negative impacts to the environment or public, and that the proposed electronic message center will not be detrimental to the area by reason of lighting, appearance, or impact on neighboring uses. Accordingly, the Board has determined that the Special Permit requested is warranted. The Board made the following findings pursuant to Section 7.6-A.4.:

FINDINGS:

Section 2: Administration, 2. Special Permits, B. Finding and Determination required that:

(a) does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested special permit;

The Board finds this condition is satisfied based on the findings noted above pursuant to Section 7.6-A.4. of the Zoning Bylaw.

(b) shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;

The Board finds that the LED messaging centers do not generate vehicular or pedestrian traffic that would adversely affect the immediate neighborhood. As stated in the public hearing, the messaging centers will be for the Norwood Urgent-Care, and used for informational and emergency purposes with regards to the health and wellness. Therefore, this condition is satisfied.

(c) shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;

The Board finds that the electronic message centers do not generate a number of residents, employees, customers or visitors so as to adversely affect the immediate neighborhood. The Norwood Urgent-Care that will be occupying the site is a commercial building, and located within the Highway Business District, and is surrounded by other

commercial buildings that house businesses as well. The electronic message center will be utilized for informational and emergency purposes with regards to the health and wellness and therefore will not alter the number of residents, employees, customers or visitors. Therefore, this condition is satisfied.

(d) shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;

The Board finds that the proposed electronic messaging center will be within the footprint of the already existing sign, and therefore meeting the setbacks required. There will be no increase in coverage nor are any buffering requirements of Section 5-G are applicable. The Board therefore finds that this condition is satisfied.

(e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;

The Board finds that electronic messaging centers are not generally known to be associated with fire, explosion, emission of wastes or other similar incidents, and therefore this condition is therefore met.

(f) shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;

The Board finds that the proposed electronic messaging center is equipped with automatic dimming technology/ ambient light monitors that automatically adjust the brightness levels to the display based on ambient light conditions. The message center will have a static display, with no use of lasers, sound or rays of light. There is nothing being used, generated or otherwise that would create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood. As stated at the public hearing, the message center will only have one side visible while travelling in one direction at a time. The Board further finds that the conditions regarding illumination limitations of the digital message center faces will prevent glare conditions from adversely affecting the immediate neighborhood. As such, the Board finds that this criterion is met. Therefore, this condition is satisfied.

(g) shall not adversely affect the character of the immediate neighborhood; and

The Board finds the proposed electronic messaging center will be within the footprint of the already existing sign according to the plans submitted at the public hearing. The signs appearance is designed in a tasteful manner, with minimal expansion of total size, and therefore will not adversely affect the character of the immediate neighborhood, which is zoned Highway Business. Therefore, this condition is satisfied.

(h) shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.

The Board finds that the purpose of the Zoning Bylaw in part states, "to encourage housing for persons of all income levels... " "to encourage the most appropriate use of the land". The proposed electronic messaging center will be located in the Highway Business District, which houses many commercial buildings and businesses with similar signs and displays. The purpose of the electronic message center is to provide informational and emergency information and notifications regarding health and wellness to the residents of the surrounding areas, which is consistent with the purpose of the zoning district, therefore, the Board finds the proposed electronic messaging center will allow the Norwood Urgent-Care to display important information in an illuminated and effective manner. As such, this use, as conditioned, is entirely compatible with the purpose of the Zoning Bylaw and this condition is satisfied.

Additionally, the necessary Findings and Determinations noted in Section 7.6-A.4. of the Zoning Bylaw have been satisfied and addressed through this Decision and the conditions.

Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: "...Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."

Massachusetts General Laws c. 40A, §11 provides in pertinent part as follows: "A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit, accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."

APPEALS FROM THIS DECISION FOR A SPECIAL PERMIT, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS


Robert Fitzgerald, Clerk

BF/am

cc: Town Clerk
Applicant
Building Inspector

This decision was made on June 17, 2020 and filed with the Town Clerk on July 1, 2020.